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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 171017999-8036-01]

RIN 0648-BH32

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Reef Fish Fishery of the Gulf of Mexico; Modifications to
Greater Amberjack Recreational Fishing Year and Fixed Closed
Season**

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures
described in a framework action to the Fishery Management Plan
for the Reef Fish Resources of the Gulf of Mexico (FMP), as
prepared by the Gulf of Mexico Fishery Management Council
(Council). If implemented, this proposed rule would change the
recreational fishing year and modify the recreational fixed
closed season for greater amberjack in the Gulf of Mexico (Gulf)
exclusive economic zone (EEZ). The purposes of this proposed
rule and the framework action are to constrain recreational

harvest to assist in ending overfishing, and to rebuild the greater amberjack stock in the Gulf, while maximizing optimum yield (OY) of the greater amberjack stock in the Gulf.

DATES: Written comments must be received on or before February 10, 2018.

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2017-0149" by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0149, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Kelli O'Donnell, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the framework action, which includes

an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis may be obtained from the Southeast Regional Office Web Site at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/GAJ_Fishing%20Year/final_action_modify_recre_fishing_yr.pdf.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS SERO, telephone: 727-824-5305, email: Kelli.ODonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes greater amberjack, is managed under the FMP. The Council prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and to achieve, on a continuing basis, the OY from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation.

The greater amberjack resource in the Gulf was declared overfished by NMFS on February 9, 2001. The most recent

Southeast Data Assessment and Review stock assessment was completed in 2016, and indicated the Gulf greater amberjack stock remained overfished, was undergoing overfishing, and would not be rebuilt by 2019, as was previously estimated. In response to the assessment results, the Council established new annual catch limits (ACLs) and annual catch targets (ACTs) (codified as quotas) that will be effective on January 27, 2018 (82 FR 61485; December 28, 2017). Under these new harvest levels, NMFS estimates the Gulf greater amberjack stock will be rebuilt by 2027. The Council also modified recreational fixed closed season from June through July each year to January through June. The Council intended this change to the fixed closed season to be a short-term measure to protect the Gulf greater amberjack stock during its spawning season (March through April) and allow the Council time to develop this current framework action and proposed rule to establish two separate recreational fishing seasons.

Management Measures Contained in this Proposed Rule

This proposed rule would revise the recreational fishing year and the recreational closed season for greater amberjack

in the Gulf.

Greater Amberjack Recreational Fishing Year

The current Gulf recreational fishing year for greater amberjack is January 1 through December 31 and was established in the original FMP (49 FR 39548; October 9, 1984). This proposed rule would revise the Gulf greater amberjack recreational fishing year to be August 1 through July 31. This change would allow for greater amberjack harvest to occur later in the year and provide an opportunity to harvest greater amberjack when harvest of many other reef fish species is prohibited due to in-season quota closures. Starting the fishing year in August, when fishing effort is lower, is also expected to result in enough quota remaining to allow for fishing during May of the following calendar year.

Consistent with the change in the fishing year, this proposed rule would revise the years associated with the greater amberjack recreational ACLs and quotas. Currently, the recreational ACLs and quotas are defined by the calendar year, which is also the fishing year. With the proposed change to the recreational fishing year, the recreational ACLs and quotas would apply across calendar years. Therefore, this proposed rule would assign the recently implemented 2018 ACL and quota

to the remainder of the August 1, 2017, through July 31, 2018, recreational fishing year. The 2019 recreational ACL and quota would correspond to the 2018-2019 recreational fishing year, and the recreational ACL and quota for 2020 and beyond would correspond to all subsequent fishing years.

Greater Amberjack Recreational Closed Season

The final rule for Amendment 35 to the FMP established a greater amberjack recreational closed season from June 1 to July 31 to restrict harvest during times of peak fishing (77 FR 67574; November 13, 2012). This closed season was expected to reduce harvest enough to avoid an in-season closure as a result of the quota being met. However, the recreational sector has closed early each year since 2014. Therefore, the Council decided to modify the recreational closed season. As explained above, NMFS recently published a final rule that changed the closed season from June through July each year to January through June (82 FR 61485; December 28, 2017) to allow the Council the time to further modify the closed season to create two separate recreational fishing seasons.

This proposed rule would modify the recreational fixed closed season for greater amberjack to be from January 1 through April 30, June 1 through July 31, and November 1 through December

31, each year. This means that recreational harvest would be allowed in May and from August through October each calendar year unless an in-season closure was necessary to constrain harvest to the recreational quota. Because this proposed rule would also change the recreational fishing year, NMFS would begin monitoring landings as compared to the applicable quota on August 1 each year and, therefore, any in-season quota closure would occur later in the fall or during May of the following year. The proposed recreational fixed closed season is expected to reduced landings, which would reduce the likelihood of an in-season closure and recreational landings exceeding the recreational ACL. This rulemaking is also expected to protect greater amberjack during peak spawning months in the majority of the Gulf (March through April), thereby contributing to rebuilding the greater amberjack stock within the rebuilding time period.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the framework action, the FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

A description of the proposed rule, why it is being considered, and the objectives of, and legal basis for this proposed rule are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

The proposed rule would modify the recreational greater amberjack fishing year and fixed closed season. As a result, this proposed rule would affect recreational anglers and federally permitted charter vessels and headboats (for-hire)

fishing for greater amberjack in the Gulf. Only recreational anglers are directly affected by this proposed rule, and they are not considered business entities under the RFA. For-hire vessels would be affected by this action but only in an indirect way. For-hire businesses (charter vessels and headboats) operate in the recreational sector, but these businesses only sell fishing services to recreational anglers. For-hire vessels provide a platform for the opportunity to fish and not a guarantee to catch or harvest any species, though expectations of successful fishing, however defined, likely factor into the decision by anglers to purchase these services. Because the effects on for-hire vessels would be indirect, they fall outside the scope of the RFA.

The information provided above supports a determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this proposed rule, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Fishing season, Fishing year, Greater amberjack, Gulf, Recreational, Reef fish.

Dated: January 19, 2018.

Samuel D. Rauch III,

*Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.7, add paragraph (h) to read as follows:

§ 622.7 Fishing years.

* * * * *

(h) *Gulf of Mexico greater amberjack recreational sector—*
August 1 through July 31. (Note: The fishing year for the

commercial sector for greater amberjack is January 1 through December 31).

3. In § 622.34, revise paragraph (c) to read as follows:

§ 622.34 Seasonal and area closures designed to protect Gulf reef fish.

* * * * *

(c) *Seasonal closure of the recreational sector for greater amberjack.* The recreational sector for greater amberjack in or from the Gulf EEZ is closed from January 1 through April 30, June 1 through July 31, and November 1 through December 31, each year. During the closure, the bag and possession limit for greater amberjack in or from the Gulf EEZ is zero.

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4. In § 622.39, revise paragraph (a)(2)(ii) to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(2) * * *

(ii) *Recreational quota for greater amberjack.*

(A) For the 2017-2018 fishing year—716,173 lb (324,851 kg).

(B) For the 2018-2019 fishing year—902,185 lb (409,224 kg).

(C) For the 2019-2020 fishing year and subsequent fishing years—1,086,985 lb (493,048 kg).

* * * * *

5. In § 622.41, revise paragraph (a)(2)(iii) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(2) * * *

(iii) The applicable recreational ACL for greater amberjack, in round weight, is 862,860 lb (391,387 kg) for the 2017-2018 fishing year, 1,086,970 lb (493,041 kg) for the 2018-2019 fishing year, and 1,309,620 lb (594,034 kg) for 2019-2020 fishing year and subsequent fishing years.

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